

DEVELOPMENT SERVICES DEPARTMENT

Planning & Zoning Division

MEMORANDUM

PZ 06-15-99

06/16/99 COUNCIL AGENDA ITEM

TO: Robert Rawls, Interim Town Administrator

THRU: Mark Kutney, AICP, Development Services Director

BY: Gayle Easterling, AICP, Planning and Zoning Manager

DATE: June 3, 1999

RE: DG 6-1-99 - Resolution

The attached Resolution authorizes the Mayor and Town Administrator to enter into a Traffic Concurrency Agreement which states the Town will not issue Certificates of Occupancy until certain payments or securities for roadway improvements are made to Broward County and the City of Weston.

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND TOWN ADMINISTRATOR TO ENTER INTO AN AGREEMENT BETWEEN THE TOWN OF DAVIE, BROWARD COUNTY, THE CITY OF WESTON, AND M.J. STERLING, INC., PROVIDING FOR REMEDIAL MEASURES TO SATISFY CONCURRENCY REQUIREMENTS RELATED TO THE POINTE WEST CENTER PLAT; TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID AGREEMENT.

WHEREAS, M.J. Sterling, Inc., is proposing to develop properties within the Pointe West Center Plat; and

WHEREAS, Broward County will allow remedial measures to satisfy concurrency requirements for compact deferral areas should an agreement be entered into with the Town as a party.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. The Town Council of the Town of Davie does hereby authorize the Mayor and Town Administrator to enter into an Agreement, attached hereto as Exhibit "AA", between Broward County, the City of Weston, and M.J. Sterling, Inc., and the Town of Davie, providing for remedial measures to satisfy concurrency requirements.

SECTION 2. The Town of Davie Development Services Department shall not issue a certificate of occupancy for any development within the Plat prior to presentation of a receipt or proof of security for payment of \$114,863.00 as indicated in the agreement.

SECTION 3. This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 1999.

MAYOR/COUNCILMEMBER

Attest:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 1999.

Return recorded document to:
Broward County Dev. Management Division
115 South Andrews Avenue, Room #A-240
Fort Lauderdale, Florida 33301

Document prepared by:
Bonnie L. Miskel, Esq.
Ruden, McClosky, et al.
200 E. Broward Boulevard, P.O. Box 1900
Fort Lauderdale, FL 33301

TRAFFIC CONCURRENCY AGREEMENT

AMONG

BROWARD COUNTY, AND

THE TOWN OF DAVIE, AND

THE CITY OF WESTON AND

M.J. STERLING, INC.

FOR ROAD CONCURRENCY RELATING TO

THE POINT WEST CENTER PLAT

THIS AGREEMENT, is made and entered into by and among:

BROWARD COUNTY, a political subdivision of the State of Florida, its successors and assigns, hereinafter referred to as "COUNTY" through its Board of County Commissioners;

and

The TOWN OF DAVIE, a Florida municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "TOWN;"

and

The CITY OF WESTON, a municipal corporation created and existing under the laws of the State of Florida, hereinafter referred to as "CITY;"

and

M.J. STERLING, INC., its successors and assigns, hereinafter referred to as "DEVELOPER."

WHEREAS, Chapter 5, Article IX, Broward County Code of Ordinances, requires that the regional transportation network be adequate to serve the reasonably projected needs of proposed developments; and

WHEREAS, Section 5-182 of said Chapter 5 more specifically requires that an application for a development permit satisfy concurrency requirements for compact deferral areas; and

WHEREAS, DEVELOPER has applied for approval of the Point West Center Plat (017-MP-98) more particularly described in Exhibit "A" attached hereto and made a part hereof; and

WHEREAS, on July 28, 1998, the Broward County Development Management Division issued a Notification of Failure to Satisfy Broward County Concurrency Standards for the regional transportation network, finding that the application for approval of the Plat does not satisfy the compact deferral area concurrency standards for the regional road network as stated in Section 5-182 of the Broward County Land Development Code ("CODE") for Griffin Road from I-75 to SW 160th Avenue, and for Weston Road from Emerald Park Circle to Griffin Road, and for Weston Road from Arvida Parkway to South Post Road, and for Arvida Parkway from I-75 to SW 160th Avenue; and

WHEREAS, COUNTY has undertaken an expansion of Griffin Road from I-75 to Bonaventure Boulevard ("County Project"); and

WHEREAS, City will be undertaking an expansion of Arvida Parkway from I-75 to West of Weston Road and an expansion of Weston Road from North Commerce Park Way South to South Corporate Lakes Boulevard (collectively, "City Project"); and

WHEREAS, in accordance with Ordinance No. _____, the CITY made a determination that a contract for the CITY Project shall be let no later than September 30, 2000; and

WHEREAS, DEVELOPER has conducted a study and has determined that COUNTY Project and CITY Project will mitigate the Plat's traffic impacts so that the Plat will satisfy Broward COUNTY concurrency standards; and

WHEREAS, DEVELOPER has agreed to pay a share of the cost of COUNTY Project and CITY Project, proportionate to the Plat's impact; and

WHEREAS, the Broward County Development Management Division has approved these remedial measures and finds that its concurrency requirements for the Plat will be met with the execution of, and compliance with, the terms of this Agreement by DEVELOPER;

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the parties agree as follows:

1. The above recitals are true and correct and are hereby incorporated herein.
 2. Construction of Improvements.
 - (a) DEVELOPER agrees to pay to County \$75,026 which represents DEVELOPER's proportionate share of the cost of the COUNTY Project. DEVELOPER agrees that payment must be made prior to recordation of the Plat.
 - (b) DEVELOPER agrees to pay to CITY \$39,837 which represents the DEVELOPER's proportionate share of the cost of the CITY Project. DEVELOPER agrees that payment must be made on or before December 31, 1999.
 - (c) CITY shall execute a binding contract for the implementation of the CITY Project no later than September 30, 2000.
 - (d) Form of Security. (Strike through inapplicable ALTERNATIVE)
- (ALTERNATIVE A)
- (i) This Agreement shall be recorded in the Official Records of Broward County and a lien is hereby imposed by the COUNTY against all of the real property described in Exhibit "A" for \$114,863. Such lien shall continue from the date of this Agreement until fully paid, discharged, released or barred by law. The obligations created under this Agreement shall run with the land and shall bind DEVELOPER, its successors, grantees, heirs and assigns.
 - (ii) In the event that the amount of money or any portion thereof the DEVELOPER has agreed to pay pursuant hereto becomes due and payable as provided herein and continues unpaid for thirty (30) days

or more thereafter, the entire unpaid balance of such amount, plus costs and interest accrued from the due date at the rate of 12 percent per annum, shall become immediately due and payable and may be recovered by the COUNTY or CITY, as applicable, against the DEVELOPER in a civil action, along with COUNTY's costs or CITY's costs, as applicable, incurred in bringing such action, or the lien created hereby plus such costs and interest may be foreclosed or otherwise enforced by the COUNTY or CITY, as applicable, by action or suit in equity as for the foreclosure of a mortgage on real property.

- (iii) The lien of any mortgage on the real property described in Exhibit "A" shall be subordinate to the rights of the COUNTY and/or CITY with respect to the lien created by this Agreement. The DEVELOPER shall cause this Agreement to be executed by the holder of any such mortgage as consent to such subordination.
- (iv) When the lien hereby has been fully paid or discharged, the COUNTY and CITY, as applicable, shall promptly cause evidence of such satisfaction and discharge to be recorded in the Official Records of Broward County. At the request of the DEVELOPER and upon payment of the appropriate amounts, the COUNTY and CITY, as applicable, may grant the DEVELOPER a partial release of the lien.

(ALTERNATIVE B)

- (v) In the event DEVELOPER elects to post a Letter of Credit or Surety Bond, DEVELOPER shall provide the COUNTY contemporaneously with this Agreement with a form of security such as a surety bond or irrevocable letter of credit, which is acceptable to the COUNTY and which will guarantee the DEVELOPER's payment in full of \$114,863 which represents 100% of the amount of payment to be made to COUNTY and CITY for the COUNTY and CITY Projects.
- 3. CONCURRENT COMPLIANCE. COUNTY finds that by executing and complying with the terms of this Agreement, DEVELOPER has satisfied the adequacy of the Regional Roadway Network requirement of Section 5-182 of the Broward County Land Development Code for the PLAT as approved by the COUNTY.
 - 4. TOWN is a party to the Agreement solely for the purpose of issuance of a Certificate of Occupancy which shall not be issued for any development within the Plat until TOWN receives confirmation from COUNTY and CITY that the payments required pursuant to Section 2(a) and (b) and have been received by COUNTY and CITY.

5. This Agreement shall be recorded in the Public Records of Broward County and shall be binding upon successors and assigns.
6. APPLICABLE LAW AND VENUE. The parties agree that this Agreement shall be construed in accordance with the laws of the state of Florida. Venue for any action arising from this Agreement shall lie in Broward County, Florida.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Chair or Vice Chair, authorized to execute same by Board action on the ____ day of _____, 1999, CITY OF WESTON, signing by and through its Mayor, duly authorized to execute same, TOWN OF DAVIE, signing by and through its Mayor, duly authorized to execute same, and DEVELOPER, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator and
Ex-Officio Clerk of the
Board of County Commissioners
of Broward County, Florida

By _____
Chair

____ day of _____, ____ (date)

Approved as to form by
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
Assistant County Attorney

TRAFFIC CONCURRENCY AGREEMENT AMONG BROWARD COUNTY, THE CITY OF WESTON AND THE TOWN OF DAVIE FOR ROAD CONCURRENCY RELATING TO THE POINT WEST CENTER PLAT

CITY

CITY OF WESTON

Witness Signature

Mayor

Printed Name

____ day of _____, 1999

Witness Signature

Printed Name

ATTEST:

City Clerk

____ day of _____, 1999

CORPORATE SEAL

APPROVED AS TO FORM:

By _____
City Attorney

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____ by _____ who is personally known to me or who has produced _____ as identification.

My commission expires:

NOTARY PUBLIC

Commission No.

Type or print name

TRAFFIC CONCURRENCY AGREEMENT AMONG BROWARD COUNTY, THE CITY OF WESTON AND THE TOWN OF DAVIE FOR ROAD CONCURRENCY RELATING TO THE POINT WEST CENTER PLAT

TOWN

TOWN OF DAVIE

Witness Signature

Mayor

____ day of _____, 1999

Printed Name

Witness Signature

Printed Name

ATTEST:

City Clerk

____ day of _____, 1999

CORPORATE SEAL

APPROVED AS TO FORM:

By _____
Town Attorney

STATE OF FLORIDA)

) SS

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____ by _____ who is personally known to me or who has produced _____ as identification.

My commission expires:

NOTARY PUBLIC

Commission No.

Type or print name

DEVELOPER

Witnesses:

Patricia G. Kelly
Printed Name: PATRICIA G. KELLY
Albert Gonzalez
Printed Name: Albert Gonzalez

M.J. STERLING, INC.

By: Jack Lowell

Print name: JACK LOWELL

Title: VICE PRESIDENT

Address: TWO ALHAMBRA PLAZA, PH II
CORAL GABLE, FLORIDA 33134

(CORPORATE SEAL)

3rd day of June, 1999

STATE OF Florida)
) SS
COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me this 3rd day of June, 1999, by Jack Lowell, the Vice President of M.J. STERLING, INC., a Florida corporation, duly authorized and on behalf of said corporation, who is personally known to me or who has produced _____ as identification.

(Seal)

NOTARY PUBLIC:

Patricia G. Kelly
Print name: Patricia G. Kelly
Commission No.: _____

My commission expires:



Jun-03-99 12:10am From-

T-467 P 10/10 F-007

EXHIBIT "A"

LEGAL DESCRIPTION

CATA208
PTL 392058.2 County Project
10/7/98

REMAINING PORTION TRACT 41

S00°12'47"E

462.37'

DESCRIPTION:

A PORTION OF TRACTS 41 AND 42, FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO. 1, LYING IN SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 17, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 21; THENCE NORTH 00°15'37" WEST ALONG THE WEST LINE OF SAID SECTION 21 (BEARINGS AS SHOWN ON THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE ROAD NO. 93/1-75, SHEET 1 OF 11 SHEETS OF SECTION 86075-2417) A DISTANCE OF 521.79 FEET; THENCE NORTH 89°55'16" EAST, 15.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°55'16" EAST ALONG A LINE 140.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 42, A DISTANCE OF 620.82 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE (RADIAL LINE THROUGH SAID POINT BEARS SOUTH 69°12'29" WEST); THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, BEING CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 11,706.16 FEET, A DELTA OF 01°00'42", AN ARC DISTANCE OF 206.70 FEET; THENCE SOUTH 24°25'17" EAST, 344.50 FEET (THE LAST THREE (3) COURSES DESCRIBED BEING COINCIDENT WITH THE SOUTHERLY RIGHT-OF-WAY LINE OF SOUTHWEST 36TH STREET AND THE WESTERLY RIGHT-OF-WAY LINE OF 1-75 AS RECORDED IN OFFICIAL RECORDS BOOK 7637, PAGE 156 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA); THENCE SOUTH 89°54'18" WEST ALONG A LINE 15.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 21, A DISTANCE OF 836.02 FEET; THENCE NORTH 00°15'37" WEST ALONG A LINE 15.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 21, A DISTANCE OF 506.79 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN BROWARD COUNTY, FLORIDA, CONTAINING 8.427 ACRES, MORE OR LESS.

CAD LIBRARY: 402DRAN

PARCEL
CTS 41 & 42
NDS COMPANY'S
IN NO. 1

SCALE:

1" = 50'

PROJECT
NUMBER

97-0402

SHEET

1

OF

1

SHEETS